

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

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TIMOTHY D. WILLIAMS,

Plaintiff,

and,

Case No.

STATE OF WISCONSIN  
DEPARTMENT OF HEALTH SERVICE,  
BLUE CROSS BLUE SHIELD OF WISCONSIN,  
COMPCARE HEALTH SERVICES,  
INSURANCE CORPORATION

Involuntary Plaintiffs,

v.

WALMART CLAIMS SERVICES, INC.,  
ABC CORPORATION,

Defendants.

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**NOTICE OF REMOVAL**

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**NOW COMES** Defendant Wal-Mart Claims Services, Inc. d/b/a Sam's Club ("Defendant"), by and through its attorneys, MWH Law Group LLP, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and hereby removes the above-captioned cause of action from Waukesha County Circuit Court to the United States District Court for the Eastern District of Wisconsin - Milwaukee Division.

In support thereof, Defendant states the following:

1. This action was originally filed by Plaintiff against Defendant on or about April 6, 2021, in Waukesha County Circuit Court, entitled *Timothy D. Williams v. Walmart Claims*

*Services, Inc., d/b/a Sam's Club.* Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint against Defendant which has been served with process is attached as **Exhibit No. 1**.

2. Personal service was made upon the Defendants' Registered agent on or about April 8, 2021. A copy of the Return of Service for Defendant served with process is attached to **Exhibit No. 1**.

3. This case may be removed from Waukesha County Circuit Court to the United States District Court for the Eastern District of Wisconsin - Milwaukee Division, pursuant to 28 U.S.C. § 1332. The United States District Court has original jurisdiction over the litigation filed in state court based on diversity of the parties.

4. This is a civil action in which Plaintiffs claim they are entitled to damages resulting from an incident at the Walmart store located at 600 North Springdale Road, Waukesha, Wisconsin, on or about December 6, 2019. Plaintiff alleges that he has "sustain[ed] severe and even possible permanent injuries to his shoulders, back and left leg" (**Exhibit 1, ¶ 9**). Plaintiff is seeking damages for "past injuries, past pain and suffering, and past medical and hospital expenses . . . injuries [which] may be permanent in nature, thereby causing him to suffer pain and disability in the future, and incur medical and hospital expenses in the future" (**Exhibit 1, ¶¶ 13, 18**). Based on the allegations contained the Plaintiff's Complaint, the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs.

5. Defendants Wal-Mart Claims Services, Inc. has its principal place of business in Arkansas and is incorporated in Delaware, and therefore, is deemed to be citizen of both Delaware and Arkansas pursuant to 28 U.S.C. 1332(c)(1).

6. Plaintiff is a citizen and resident of Wisconsin.

7. A party is a nominal party if there is no reasonable basis for predicting that it will be held liable. *Vandervest v. Wisconsin Cent.*, 936 F. Supp. 601 (E.D. WI, 1996) (holding that State Farm and WEA, as insurers of the plaintiffs who were named as defendants solely to protect their respective subrogated interests do not fall within the purview of Wis. Stats. § 632.24 or § 803.04(2) and are not otherwise real parties in interest).

8. Involuntary Plaintiff State of Wisconsin Department of Health Services is a government agency located in Madison, Wisconsin and is a nominal party in this action as opposed to real party in interest on the basis that it may have a subrogated interest in this litigation. Wisconsin Department of Health Services will not actively participate in this action, except to the extent it takes steps which may become necessary to recover its interest should the parties fail to satisfy its interest through the resolution of these proceedings.

9. Involuntary Plaintiff Blue Cross Blue Shield of Wisconsin is a corporation doing business in Wisconsin and is a nominal party in this action as opposed to real party in interest on the basis that it may have a subrogated interest in this litigation and will not actively participate in this action, except to the extent it takes steps which may become necessary to recover its interest should the parties fail to satisfy its interest through the resolution of these proceedings.

10. Involuntary Plaintiff Compcare Health Services Insurance Corporation is a corporation doing business in Wisconsin and is a nominal party in this action as opposed to real party in interest on the basis that it may have a subrogated interest in this litigation and will not actively participate in this action, except to the extent it takes steps which may become necessary to recover its interest should the parties fail to satisfy its interest through the resolution of these proceedings.

11. ABC Insurance Company is a fictional entity that is alleged to “have provided liability insurance to the Defendant” (**Exhibit 1, ¶ 6**). However, Defendant is self-insured for the type of

action alleged in Plaintiff's Complaint, and thus, naming fictitious entity ABC Insurance Company as an involuntary Plaintiff has no bearing on the issue of diversity of citizenship.

12. The time for filing this notice of removal has not run because thirty (30) days has not expired since April 8, 2021, the date on which Defendant was personally served with the Original Summons and Complaint through its registered agent.

13. Counsel that has appeared on behalf of Plaintiff in the state court is:

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J. Richard Law Offices, LLC  
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Milwaukee, WI 53203  
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14. This Notice of Removal is being served upon the Plaintiff's counsel by Electronic Mail and it is being filed with the Clerk of Waukesha County Circuit Court.

**WHEREFORE**, Defendant Wal-Mart Claims Services, Inc., d/b/a Sam's Club gives notice that the above-captioned action now pending against it in Waukesha County Circuit Court is being removed therefrom to the United States District Court for the Eastern District of Wisconsin - Milwaukee Division.

Dated at Milwaukee, Wisconsin this 6<sup>th</sup> day of May, 2021.

**MWH LAW GROUP LLP**

Attorneys for Defendant, Wal-Mart Claims Services, Inc.,  
d/b/a Sam's Club

By: /s/ Electronically signed by Vincent Vigil  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on May 6, 2021, a copy of this document was served upon all parties in the above cause by U.S. Mail and the electronic document management/electronic filing system (“ECF”), which will send notification of such filing to all attorneys of record.

**Attorneys for Plaintiff, Timothy D. Williams**

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**Involuntary Plaintiff, State of Wisconsin**

**Department of Health Services**

A Governmental Agency  
c/o Dennis C. Schuh, Chief Legal Counsel  
Office of Legal Counsel  
One West Wilson Street, Room 651  
Madison, Wisconsin 53703,

**Involuntary Plaintiff Blue Cross Blue Shield of Wisconsin**

c/o Registered Agent:  
CT Corporation System  
301 South Bedford Street, Suite 1  
Madison, Wisconsin 53703, and

**Involuntary Plaintiff, Compcare Health Services**

**Insurance Corporation**

c/o Registered Agent: CT Corporation System  
301 South Bedford Street, Suite 1  
Madison, Wisconsin 53703

/s/ Elsa Chavez